

The Gazette of India

EXTRAORDINARY

PART II—Section 2

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LOK SABHA

The following Bills were introduced in Lok Sabha on the 28th August, 1959:—

BILL No. 58 OF 1959.

A Bill to provide for co-ordination of the various transport systems in the country and for matters connected therewith.

Be it enacted by Parliament in the Tenth Year of the Republic of India as follows:

1. (1) This Act may be called the Transport Co-ordination Act, 1959. Short title,
extent and
commence-
ment.

5 (2) It extends to the whole of India.

(3) It shall come into force at once.

2. 'Transport' in this Act means transport by rail, road, water or air whether owned and managed by the State or by private undertakings. Definition.

10 3. The Central Government shall so regulate the fares, freights and travel facilities of the transport systems as to eliminate competition amongst them and leave the users free choice in the selection thereof. Regulation
of transport
systems

15 4. (1) The Central Government shall lay down rules for carrying out the provisions of the foregoing section. Power to
make Rules.

(2) All rules made under this section shall be laid for not less than thirty days before each House of Parliament as soon as may be after they are made and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.

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**Penalty for
contraven-
tion of Rules,**

5. Whoever contravenes the provisions of this Act shall be liable to such penalty as may be prescribed by the rules.

STATEMENT OF OBJECTS AND REASONS

It appears that the various forms of transport of goods and passengers in the country have been developing a spirit of competition amongst themselves and this is likely to affect the interest of the nation rather adversely. It is, therefore, necessary to make suitable provision for co-ordination amongst them with a view to bringing about the highest efficiency and also giving to the users absolute freedom in the choice thereof. The Bill is conceived to achieve this objective.

NEW DELHI;
The 27th April, 1959.

JHULAN SINHA.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Under section 3 of the Bill the Central Government is empowered to lay down rules for effecting co-ordination between the various forms of transport with a view to avoid competition. This is a task which the Government only is in a position to do after considering the state of things obtaining on far flung transport systems of this big country. The penalty to be prescribed by these rules shall naturally be in accordance with the nature and gravity of the offence committed.

The rule making power under the Act is, but for the power of prescribing penalty for contravention thereof, generally speaking of a normal character. In the very nature of things the question of the quantum of penalty has to be left to the Government. In view of the provision for modification of the rules by the Parliament there is hardly any reason for apprehension of misuse of the power.

BILL No. 44 of 1959.

A Bill further to amend the Industrial Disputes Act, 1947.

Be it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Industrial Disputes (Amendment) Act, 19 . Short title
and commencement.

5 (2) It shall come into force at once.

14 of 1947. 2. In section 3, after sub-section (2) of the Industrial Disputes Act, 1947 the following new sub-sections shall be inserted, namely:— Amendment
of section 3.

10 (3) Subject to the provisions of this section, the Works Committee shall be entitled to exercise all such powers as the employer is authorised to exercise and to do all such acts and things as the employer is authorised to do in the matters of production, workers' amenities and facilities provided under the various provisions of the Factories Act, 1948 and any matter of common interest: 63 of 1948.

15 Provided that it shall have no say in the purchase or sale of any goods or property on behalf of the industrial establishment but all accounts shall be placed in the meeting of the Committee.

64 of 1947. 20 (4) The Works Committee shall decide all industrial disputes provided in the schedules of Industrial Disputes Act, 1947 and unanimous decision of the Committee shall be final and binding upon all the parties and no appeal shall lie against the orders of the Committee.

25 (5) Where the dispute is not settled, the Works Committee may in writing refer it to a Tribunal for adjudication, the decision of which shall be binding and no appeal shall lie against the order of the Tribunal."

STATEMENT OF OBJECTS AND REASONS

Under Section 3 of the Industrial Disputes Act, 1947 the functions and powers of the Works Committee are very limited.

The purpose of the present Bill is to provide that these Committees shall be associated with the management of the concerns in respect of production, workers' amenities and facilities, that they shall decide all disputes between employers and employees and that their unanimous decision shall be final.

RAM KRISHAN GUPTA.

NEW DELHI;
The 21st May, 1959.

BILL No. 55 OF 1959.

A Bill to consolidate and amend the law relating to co-operative societies for the Union Territories.

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

5 1. (1) This Act may be called the Co-operative Societies (For Union Territories) Act, 19 . Short title,
extent and
commerce-
ment.

(2) It extends to the Union Territories only.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

10 2. In this Act, unless the context otherwise requires,—

Definitions.

(a) 'bye-laws' means the registered bye-laws for the time being in force;

15 (b) 'committee' means the governing body of a co-operative society, by whatever name called, to which the management of the affairs of the society is entrusted;

(c) 'co-operative society' means a society registered or deemed to be registered under this Act;

20 (d) 'co-operative society with limited liability' means a co-operative society, in which the liability of its members, for the debts of the society in the event of its being wound up, is limited by its bye-laws—

(i) to the amount, if any, unpaid on the shares respectively held by them; or

(ii) to such amount as they may, respectively, undertake to contribute to the assets of the society;

(e) 'co-operative society with unlimited liability' means a co-operative society, the members of which are, in the event of its being wound up, jointly and severally liable for and in respect of all its obligations and to contribute to any deficit in the assets of the society;

(f) 'member' means a person joining in the application for the registration of a co-operative society and a person admitted to membership after such registration in accordance with this Act, the rules and the bye-laws, and includes a nominal and an associate member;

(g) 'officer' means the President, Vice-President, Chairman, Vice-Chairman, Secretary, Manager, Member of Committee, Treasurer, Liquidator, Administrator and includes any other person empowered under the rules and the bye-laws to give directions in regard to the business of a co-operative society;

(h) 'prescribed' means prescribed by rules made under this Act;

(i) 'Registrar' means a person appointed to perform the functions of the Registrar of Co-operative Societies under this Act, and includes any person appointed to assist the Registrar when exercising all or any of the powers of the Registrar;

(j) 'rules' means the rules made under this Act.

CHAPTER II

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REGISTRATION OF CO-OPERATIVE SOCIETIES

Registrar.

3. (1) The Union Territory Administration may appoint a person to be the Registrar of Co-operative Societies for the Union Territory and may appoint other persons to assist him.

(2) The Union Territory Administration may, by general or special order, confer on any person appointed to assist the Registrar, all or any of the powers of the Registrar under this Act.

(3) Every person appointed to assist the Registrar shall exercise the powers conferred on him under sub-section (2), subject to the general superintendence and control of the Registrar.

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Societies which may be registered.

4. Subject to the provisions of this Act, a co-operative society which has as its objects the promotion of the economic interests of its members in accordance with co-operative principles, or a co-operative society established with the object of facilitating the operations of such a society, may be registered under this Act.

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5. (1) A co-operative society may, subject to the provisions of sub-section (2), be registered with or without limited liability. Registration with limited or unlimited liability.

(a) a co-operative society shall be registered with limited liability if any of its members is another co-operative society;

(b) no co-operative society shall be registered with limited liability, if—

(i) its primary object is the creation of funds to be lent to its members;

(ii) the majority of its members are agriculturists; and

10 (iii) none of the members is a co-operative society.

(2) The word 'limited' or its equivalent in any Indian language shall be the last word in the name of a co-operative society registered under this Act with limited liability.

6. (1) An application for the registration of a co-operative Application for registration of co-operative societies.
15 society shall be made to the Registrar through the district and Union Territory Administration concerned in such form as the Registrar may, from time to time, prescribe and the applicants shall furnish to him all such information about the society as he may require.

20 (2) Every such application shall conform to the following requirements, namely:—

(a) the application shall be accompanied by three copies of the proposed bye-laws of the co-operative society,

25 (b) where all the applicants are individuals, the number of applicants shall not be less than ten,

(c) every one of the applicants who is an individual shall be above the age of eighteen years,

30 (d) where the objects of the co-operative society include the creation of funds to be lent to its members and where all the applicants are individuals, the applicants shall reside in the same village or town or in the same group of villages or belong to the same class or pursue the same occupation,

35 (e) the application shall be signed by every one of the applicants who is an individual and by a person duly authorised on behalf of any co-operative society which is an applicant.

7. (1) If the Registrar is satisfied—

Registration.

(a) that the application complies with the provisions of this Act and the rules,

(b) that the objects of the proposed society are in accordance with section 4,

(c) that the aims of the proposed society are not inconsistent with the principles of social justice,

(d) that the proposed bye-laws are not contrary to the provisions of this Act and the rules,

(e) that the proposed society complies with the requirements of sound business and has reasonable chances of success, and

(f) that no other society with similar aims and objects exists within the same area of operation,

the Registrar shall register the co-operative society and its bye-laws.

(2) Where the Registrar refuses to register a co-operative society he shall communicate the order of refusal, together with the reasons therefor, to the applicants. 15

Registration certificate.

8. Where a co-operative society is registered under this Act, the Registrar shall issue a certificate of registration signed by him, which shall be conclusive evidence that the co-operative society therein mentioned is a co-operative society duly registered under this Act.

Co-operative societies to be bodies corporate.

9. The registration of a co-operative society shall render it a body corporate by the name under which it is registered having perpetual succession and a common seal, and with power to hold property, enter into contracts, institute and defend suits and other legal proceedings and to do all things necessary for the purposes for which it was constituted. 20 25

Change of name of co-operative society.

10. (1) A co-operative society may, by an amendment of its bye-laws, change its name.

(2) Where a co-operative society changes its name, the Registrar shall enter the new name on the register of co-operative societies in the place of the former name and shall amend the certificate of registration accordingly. 30

(3) The change of name of a co-operative society shall not affect any right or obligations of the co-operative society, or render defective any legal proceedings by or against it; and any legal proceedings which might have been continued or commenced by or against the society by its former name may be continued or commenced by its new name. 35

Change of liability.

11. (1) Subject to the provisions of this Act and the rules, a co-operative society may, by an amendment of its bye-laws, change the form or extent of its liability. 40

(2) When a co-operative society has passed a resolution to change the form or extent of its liability, it shall give notice thereof in writing to all its members and creditors and, notwithstanding any bye-law or contract to the contrary, any member or creditor shall, 5 during a period of one month from the date of service of the notice upon him, have the option of withdrawing his shares, deposits or loans, as the case may be.

(3) Any other member or creditor who does not exercise his option within the period specified in sub-section (2) shall be deemed 10 to have assented to the change.

(4) An amendment of the bye-laws of a co-operative society changing the form or extent of its liability shall not be registered or take effect until, either—

(a) the assent thereto of all members and creditors has been 15 obtained; or

(b) all claims of members and creditors who exercise the option referred to in sub-section (2) within the period specified therein have been met in full.

12. (1) No amendment of any bye-law of a co-operative society 20 shall be valid unless such amendment has been registered under this Act. Amendment of bye-laws of a co-operative society.

(2) Every proposal for such amendment shall be forwarded to the Registrar through the Union Territory Administration and Pan-chayat and if the Registrar is satisfied that the proposed amend- 25 ment—

(i) is not contrary to the provisions of this Act and the rules;

(ii) does not conflict with co-operative principles;

(iii) satisfies the requirements of sound business;

(iv) will promote the economic interests of the members of 30 the society, and

(v) is not inconsistent with the principles of social justice; he will register the amendment.

(3) The Registrar shall forward to the society a copy of the 35 registered amendment together with a certificate signed by him and such certificate shall be conclusive evidence that the amendment has been duly registered.

(4) Where the Registrar refuses to register an amendment of the bye-laws of a co-operative society, he shall communicate the order 40 of refusal, together with the reasons therefor, to the society.

When amendments of bye-laws come into force.

Amalgamation, transfer of assets and liabilities and division of co-operative societies.

13. An amendment of the bye-laws of a co-operative society shall, unless it is expressed to come into operation on a particular day, come into force on the day on which it is registered.

14. (1) A co-operative society may, with the previous approval of the Registrar and by a resolution passed by a two thirds majority of the members present and voting at a general meeting of the society— 5

(a) transfer its assets and liabilities in whole or in part to any other co-operative society; or

(b) divide itself into two or more co-operative societies. 10

(2) Any two or more co-operative societies may, with the previous approval of the Registrar and by a resolution passed by a two thirds majority of the members present and voting at a general meeting of each such society, amalgamate themselves and form a new co-operative society. 15

(3) The resolution of a co-operative society under sub-section (1) or sub-section (2) shall contain all particulars of the transfer, division or amalgamation, as the case may be.

(4) When a co-operative society has passed any such resolution, it shall give notice thereof in writing to all its members and creditors 20 and, notwithstanding any bye-laws or contract to the contrary, any member or creditor shall, during the period of one month of the date of service of the notice upon him, have the option of withdrawing his shares, deposits or loans, as the case may be.

(5) Any member or creditor who does not exercise his option 25 within the period specified in sub-section (4) shall be deemed to have assented to the proposals contained in the resolution.

(6) A resolution passed by a co-operative society under this section shall not take effect until, either—

(a) the assent thereto of all the members and creditors has 30 been obtained; or

(b) all claims of members and creditors who exercise the option referred to in sub-section (4) within the period specified therein have been met in full.

(7) Where a resolution passed by a co-operative society under this section involves the transfer of any assets and liabilities, the resolution shall, notwithstanding anything contained in any law for the time being in force, be a sufficient conveyance to vest the assets and liabilities in the transferee without any further assurance. 35

15. (1) Where the whole of the assets and liabilities of a co-operative society are transferred to another co-operative society in accordance with the provisions of section 14, the registration of the first mentioned co-operative society shall stand cancelled and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

Cancellation of registration certificates of co-operative societies in certain cases.

(2) Where two or more co-operative societies are amalgamated into a new co-operative society in accordance with the provisions of section 14, the registration of each of the amalgamating societies shall stand cancelled on the registration of the new society and each society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(3) Where a co-operative society divides itself into two or more co-operative societies in accordance with the provisions of section 14, the registration of that society shall stand cancelled on the registration of the new societies, and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

CHAPTER III

MEMBERS OF CO-OPERATIVE SOCIETIES AND THEIR RIGHTS AND LIABILITIES

16. (1) No person shall be admitted as a member of a co-operative society except the following, namely,—

Persons who may become members.

(a) an individual competent to contract under section 11 of the Indian Contract Act, 1872;

IX of 1872.

(b) any other co-operative society; and

(c) the Union Territory Administration.

(2) Where a person is refused admission as a member in a co-operative society, the decision refusing admission shall be communicated by the society to that person within seven days of the date of the decision.

17. (1) A co-operative society may admit any individual as a nominal or associate member.

Nominal or associate members.

(2) A nominal member shall not be entitled to any share, in any form whatsoever, in the assets or profits of the society.

(3) Save as provided in this section, a nominal or associate member shall have such privileges and rights of a member and be subject to such liabilities of a member, as may be specified in the bye-laws of the society.

Member not to exercise right till due payment made. 18. No member of a co-operative society shall exercise the rights of a member unless he has made such payment to the society in respect of membership or has acquired such interest in the society, as may be specified in the bye-laws.

Votes of members. 19. Every member of a co-operative society shall have one vote in the affairs of the society: 5

Provided that,—

(a) a nominal or associate member shall not have the right of vote;

(b) if the Union Territory Administration is a member of the co-operative society, each person nominated by the Administration on the Committee of the co-operative society shall have one vote.

Manner of exercising vote. 20. (1) Every member of a co-operative society shall exercise his vote in person and no member shall be permitted to vote by proxy. 15

(2) Notwithstanding anything contained in sub-section (1), a co-operative society which is a member of another co-operative society may, subject to any rules made under this Act, appoint one of its members to vote on its behalf in the affairs of that other society.

Restrictions on holding of shares. 21. In any co-operative society, no member other than the Union Territory Administration or any other co-operative society, shall,— 20

(a) hold more than such portion of the total share capital of the society not exceeding one-fifth thereof, as may be prescribed, or

(b) have or claim any interest in the shares of the society exceeding five thousand rupees: 25

Provided that the Union Territory Administration may, by notification in the Official Gazette, specify in respect of any class of co-operative societies a higher maximum than one-fifth of the share capital or higher amount than five thousand rupees, as the case may be. 30

Restriction on transfer of shares or interest. 22. (1) The transfer of a share or interest of a member in the capital of a co-operative society shall be subject to such conditions and restrictions as to the maximum holdings as are specified in section 21. 35

(2) No transfer by a member of his share or interest in a co-operative society shall be valid unless,—

(a) the member has held such share or interest for not less than one year;

(b) the transfer is made to a member of the society; and 40

(c) the transfer is approved by the Committee of the society.

23. (1) On the death of a member of a co-operative society, the society shall transfer the share or interest of the deceased member to the person or persons nominated, or to such person as may appear to the Committee to be the heir or legal representative of the deceased member:

Transfer of interest on death of member.

Provided that such nominee, heir or legal representative as the case may be, is admitted as a member of the society:

10 Provided further that nothing in this sub-section shall prevent a minor or a person of unsound mind from acquiring by inheritance or otherwise the share or interest of a deceased member in a co-operative society.

(2) Notwithstanding anything contained in sub-section (1) any such nominee, heir, or legal representative, as the case may be, may require the society to pay to him the value of the share or interest of the deceased member ascertained in accordance with the rules.

(3) A co-operative society may pay all other moneys due to the deceased member from the society to such nominee, heir or legal representative, as the case may be.

(4) All transfers and payments made by a co-operative society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

25 24. (1) Subject to the provisions of sub-section (2) the liability of a past member or of the estate of a deceased member of a co-operative society for the debts of the society as they existed—

Liability of past member and estate of deceased member.

(a) in the case of a past member, on the date on which he ceased to be member;

30 (b) in the case of a deceased member on the date of his death;

shall continue for a period of two years from such date.

(2) Where a co-operative society is ordered to be wound up under section 47, the liability of a past member or of the estate of a deceased member who ceased to be a member or died within two years immediately preceding the date of the order or winding up, shall continue until the entire liquidation proceedings are completed, but such liability shall extend only to the debts of the society as they existed on the date of his ceasing to be a member or death, as the case may be.

CHAPTER IV

MANAGEMENT OF CO-OPERATIVE SOCIETIES

Final authority in a co-operative society.

25. The final authority in a co-operative society shall vest in the general body of members:

Provided that where the bye-laws of a co-operative society provide for the constitution of a smaller body consisting of delegates of members of the society elected in accordance with such bye-laws, the smaller body shall exercise such powers of the general body as may be prescribed or as may be specified in the bye-laws of the society:

Provided further that nothing in this section shall affect any powers conferred on a committee or any officer of a co-operative society by the rules or the bye-laws.

Annual general meeting.

26. A general meeting of a co-operative society shall be held once in a year for the purpose of—

- (a) approval of the programmes of the activities of the society prepared by the Committee for the ensuing year;
- (b) election, if any, in the prescribed manner of the members of the Committee other than nominated members;
- (c) consideration of the audit report and the annual report;
- (d) disposal of the net profits; and
- (e) consideration of any other matter which may be brought forward in accordance with the bye-laws.

Special general meetings.

27. (1) The Committee of a co-operative society may, at any time, call a special general meeting of the society and shall call such meeting within one month after the receipt of a requisition in writing from the Registrar or from such number of members or a proportion of the total number of members, as may be prescribed.

(2) If a special general meeting of a co-operative society is not called in accordance with the requisition referred to in sub-section (1) the Registrar or any person authorised by him in this behalf shall have the power to call such meeting and that meeting shall be deemed to be a meeting called by the Committee.

Nominees of the Government on the Committee of a co-operative society.

28. (1) Where the Union Territory Administration—

- (a) has subscribed to the share capital of a co-operative society, or

(b) has assisted indirectly in the formation or augmentation of the share capital of a co-operative society as provided in Chapter VI, or

5 (c) has guaranteed the repayment of principal and payment of interest on debentures issued by a co-operative society, or

(d) has guaranteed the repayment of principal and payment of interest on loans and advances to a co-operative society,

the Union Territory Administration or any authority specified by the Union Territory Administration in this behalf, shall have the right
10 to nominate not more than three members or one-third of the total number of members of the Committee of the co-operative society, whichever is less.

(2) A member nominated on the Committee of a co-operative society under sub-section (1) shall hold office for one year.

15 29. (1) If, in the opinion of the Registrar, the Committee of any co-operative society persistently makes default or is negligent in the performance of the duties imposed on it by this Act or the rules or the bye-laws, or commits any act which is prejudicial to the interests of the society or its members, or is otherwise not functioning properly,
20 the Registrar on the recommendation of the Union Territory Administration may remove the Committee, and—

Supersession
of Com-
mittee.

(a) appoint a new-Committee consisting of one or more members of the society in its place, or

25 (b) appoint on the recommendation of the Union Territory Administration one or more Administrators who need not be members of the society,

to manage the affairs of the society for a period not exceeding two years specified in the order which period may be extended by the Registrar on the recommendation of the Union Territory Adminis-
30 tration, but the aggregate period will not exceed four years.

(2) The Committee or Administrators so appointed shall, subject to the control of the Union Territory Administration and to such instructions as the Union Territory Administration may from time to time give, have power to exercise all or any of the functions of the
35 Committee or of any officer of the society and take all such action as may be required in the interests of the society.

(3) The Committee or Administrators shall, at the expiry of its or their term of office, arrange for the constitution of a new Committee in accordance with the bye-laws of the society.

Securing
possession of
records, etc.

30. (1) If the Committee of a co-operative society is reconstituted at a general meeting of the society or the Committee of a co-operative society is removed by the Registrar under section 29 or if the society is ordered to be wound up under section 47 and the outgoing members of the Committee refuse to hand over charge of the records and property of the society to the new Committee or the Administrators or the liquidator, as the case may be, the new Committee or the Administrators or the liquidator may apply to the magistrate, within whose jurisdiction the society functions, for securing the records and property of the society. 5 10

(2) On receipt of an application under sub-section (1) the magistrate may, by a warrant authorise any police officer, not below the rank of sub-inspector, to enter and search any place where the records and the property are kept or are believed to be kept and to seize such records and property; and the records and property so seized shall be handed over to the new Committee or Administrators of the society or the liquidator, as the case may be. 15

CHAPTER V

PRIVILEGES OF CO-OPERATIVE SOCIETIES

First charge
of co-opera-
tive society
on certain
assets.

31. (1) Notwithstanding anything contained in any law for the time being in force, but subject to any prior claim of the Government in respect of land revenue or any money recoverable as land revenue, any debt or outstanding demand owing to a co-operative society by any member or past member or deceased member shall be a first charge upon the crops and other agricultural produce, cattle, fodder for cattle, agricultural or industrial implements or machinery, raw materials for manufacture and any finished products manufactured from such raw materials, belonging to such member, past member or forming part of the estate of the deceased member, as the case may be. 20 25 30

(2) No person shall transfer any property which is subject to a charge under sub-section (1) except with the previous permission in writing of the co-operative society which holds the charge.

(3) Notwithstanding anything contained in any law for the time being in force, any transfer of property made in contravention of the provisions of sub-section (2) shall be void. 35

(4) The charge created under sub-section (1) shall be available as against any claim of the Government arising from a loan granted under the Land Improvement Loans Act, 1883 or the Agriculturists Loans Act, 1884, after the grant of the loan by the society. 40

19 of 1883.
12 of 1884.

32. (1) Notwithstanding anything contained in any law for the time being in force, a member of a co-operative society may execute an agreement in favour of the society provided that his employer shall be competent to deduct from the salary or wages payable to him by the employers, such amount as may be specified in the agreement and to pay the amount so deducted to the society in satisfaction of any debt or other demand owing by the member to the society.
- (2) On the execution of such an agreement the employer shall, if so required by the co-operative society by requisition in writing and so long as such debt or demand or any part of it remains unpaid, make the deduction in accordance with the agreement and pay the amounts so deducted to the society within fourteen days from the date of the deduction.
33. A co-operative society shall have a charge upon the share or interest in the capital and on the deposits of a member or a past member and on any dividend, bonus or profits payable to a member or a past member in respect of any debt or outstanding demand owing to the co-operative society and may set-off any sum credited or payable to a member towards payment of any such debt, or outstanding demand:
- Provided that no financing bank to which a co-operative society is affiliated shall have a charge upon any sum invested in the financing bank as reserve fund by the society if the bank is not the sole creditor of the society or be entitled to set off any such sum credited or payable to the society towards any debt due from such society.
34. Subject to the provisions of section 33 the share or interest of a member in the capital of a co-operative society shall not be liable to attachment or sale under any decree or order of a court in respect of any debt or liability incurred by such member or past member, and an official assignee or a receiver under any law relating to insolvency shall not be entitled to, or have any claim on, such share or interest.
35. (1) The Central Government may, by notification in the Official Gazette, remit the income tax payable in respect of the profits of any class of co-operative societies or the dividends or other payments received by members of any class of such societies on account of profits.
- (2) The Government may, by notification in the Official Gazette, remit in respect of any class of co-operative societies,—
- (a) the stamp duty chargeable under any law for the time being in force in respect of any instrument executed by or on behalf of a co-operative society or by an officer or member thereof and relating to the business of such society, or any class

Deduction from salary to meet society's claim in certain cases.

Charge and set-off in respect of shares or interest of members in the capital of a co-operative society.

Shares or interest not liable to attachment.

Exemption from certain taxes, fees and duties.

of such instruments or in respect of any award or order made under this Act, in cases where, but for such remission the co-operative society, officer or member, as the case may be, would be liable to pay such stamp duty;

(b) any fee payable under any law for the time being in force relating to the registration of documents or court fees. 5

Explanation.—In this sub-section “Government” means in relation to stamp duty in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares, debentures, proxies and receipts, the Central Government and, save as aforesaid, the Union Territory Administration. 10

(3) The Union Territory Administration may, by notification in the Official Gazette, exempt any class of co-operative societies from taxes on— 15

(a) agricultural income,

(b) sale or purchase of goods, and

(c) professions, trades, callings and employments.

**Exemption
from com-
pulsory re-
gistration of
instruments.**

36. Nothing in clauses (b) and (c) of sub-section (1) of section 17 of the Indian Registration Act, 1908 shall apply to— 20 16 of 1908.

(a) any instrument relating to shares in a co-operative society, notwithstanding that the assets of the society consist in whole or in part of immoveable property; or

(b) any debentures issued by any such society and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immoveable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immoveable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures; or 25 30

(c) any endorsement upon or transfer of any debenture issued by any such society.

CHAPTER VI

GOVERNMENT AID TO CO-OPERATIVE SOCIETIES

35

**Promotion
of co-opera-
tive move-
ment.**

37. It shall be the duty of the Central Government and the Union Territory Administration to encourage and promote the co-operative movement in the country and to take such steps in this direction as may be necessary.

38. (1) The Central Government or the Union Territory Administration may subscribe directly to the share capital of a co-operative society with limited liability.

Direct partnership of Central Government or the Union Territory Administration in co-operative societies.

5 (2) Notwithstanding any agreement to the contrary, the Central Government or the Union Territory Administration shall not be entitled to a dividend on the shares of any such co-operative society.

39. The Central Government and the Union Territory Administration may, subject to an appropriate bye-law, provide moneys to 10 a co-operative society (hereinafter in this Chapter referred to as apex society) for the purchase of shares in other co-operative societies with limited liability.

Indirect partnership of Central Government and Union Territory Administration in co-operative societies.

40. (1) An apex society which is provided with moneys by the Central Government or the Union Territory Administration under 15 section 39, shall, with such moneys, establish a Fund to be called the Principal Government Partnership Fund.

Principal Government Partnership Fund.

(2) An apex society shall utilise the Principal Government Partnership Fund for the purpose of—

20 (a) directly purchasing shares in other co-operative societies with limited liability;

(b) providing moneys to a co-operative society (hereinafter in this Chapter referred to as central society) to enable that society to purchase shares in other co-operative societies with limited liability (hereinafter in this Chapter referred to as 25 primary societies);

(c) making payments to the Central Government or the Union Territory Administration in accordance with the provisions of this Chapter;

and for no other purpose.

30 41. (1) A central society which is provided with moneys by an apex society from the Principal Government Partnership Fund shall, with such moneys, establish a Fund to be called the Subsidiary Government Partnership Fund.

Subsidiary Government Partnership Fund.

35 (2) A central society shall utilise the Subsidiary Government Partnership Fund for the purpose of—

(a) purchasing shares in primary societies;

(b) making payments to the apex society in accordance with the provisions of this Chapter;

and for no other purpose.

Approval of Government for purchase of shares.

42. No shares shall be purchased in a co-operative society from the moneys in the Principal Government Partnership Fund or the Subsidiary Government Partnership Fund except with the previous approval in writing of the Government.

Liability to be limited in respect of certain shares.

43. Where any shares are purchased in a co-operative society by— 5

(a) the Government; or

(b) an apex society or a central society from the Principal Government Partnership Fund or the Subsidiary Government Partnership Fund as the case may be;

the liability in respect of such shares shall, in the event of the co-operative society being wound up, be limited to the amount paid in respect of such shares. 10

Restrictions on amount of dividend.

44. An apex society which has purchased shares in other co-operative societies from the moneys in the Principal Government Partnership Fund and a central society which has purchased shares 15 in primary societies from the moneys in the Subsidiary Government Partnership Fund, shall not be entitled to any dividend on the said shares.

Indemnity of apex and central societies.

45. (1) If a co-operative society in which shares are purchased from the Principal Government Partnership Fund is wound up or is 20 dissolved the Government shall not have any claim against the apex society which purchased the shares in respect of any loss arising from such purchase; but the Government shall be entitled to any moneys received by the apex society in liquidation proceedings or in dissolution, as the case may be.

25

(2) If a co-operative society in which shares are purchased from the Subsidiary Government Partnership Fund is wound up or is dissolved, neither the Government nor the apex society shall have any claim against the central society which purchased the shares in respect of any loss arising from such purchase; but the apex society 30 shall be entitled to any moneys received by the central society in liquidation proceedings or on dissolution as the case may be, and such moneys shall be credited to the Principal Government Partnership Fund.

Disposal of share capital.

46. (1) All moneys received by an apex society in respect of 35 shares of other co-operative societies purchased from the moneys in the Principal Government Partnership Fund on redemption of such shares or by way of dividends or otherwise, shall be credited to that Fund.

(2) All moneys received by a central society in respect of shares of primary societies purchased from the moneys in the Subsidiary Government Partnership Fund or redemption of such shares or otherwise shall in the first instance be credited to that Fund and then transferred to the apex society which shall credit them to the Principal Government Partnership Fund.

(3) All moneys referred to in sub-section (1) and sub-section (2) shall, notwithstanding that the shares stand in the name of the apex society or the central society, as the case may be, be paid to the Government.

5 (4) Save as provided in sub-section (3) the Government shall not be entitled to any other return on the moneys provided by it to an apex society under section 39.

47. (1) If an apex society which has established a Principal Government Partnership Fund is wound up or is dissolved, all
10 moneys to the credit of, or payable to, that Fund shall be paid to the Government.

(2) If a central society which has established a Subsidiary Government Partnership Fund is wound up or is dissolved, all moneys to the credit of, or payable to that Fund shall be paid and credited
15 to the Principal Government Partnership Fund from which it received moneys under clause (b) of sub-section (2) of section 40.

48. Any amount to the credit of a Principal Government Partnership Fund or a Subsidiary Government Partnership Fund shall not form part of the assets of the apex society or the central society,
20 as the case may be.

49. Subject to the foregoing provisions of this Chapter:—

(a) the Government may enter into an agreement with an apex society setting out the terms and conditions on which it shall provide moneys to the apex society for the purpose specified in section 41;
25

(b) an apex society may, with the previous approval of the Government, enter into an agreement with a central society, setting out the terms and conditions on which it shall provide moneys to that society from the Principal Government Partnership Fund for the purpose specified in clause (b) of sub-section
30 (2) of section 40.

50. Notwithstanding anything contained in any law for the time being in force, the Government may—

(a) give loans or make advance to co-operative societies;
35 (b) guarantee the repayment of principal and payment of interest on debentures issued by a co-operative society;

(c) guarantee the repayment of share capital of a co-operative society and dividends thereon at such rates as may be specified by the Government;

Disposal of Principal Government Partnership Fund and Subsidiary Government Partnership Fund on winding up of an apex or a central society.

Principal Government Partnership Fund and Subsidiary Government Partnership Fund not to form part of assets.

Agreement by Government and apex societies.

Other forms of Government aid to co-operative societies.

(d) guarantee the repayment of principal and payment of interest on loans and advances to a co-operative society; and

(e) give financial assistance in any other form, including subsidies, to any co-operative society.

Provisions of this Chapter to override other laws.

51. The provisions of sections 39 to 49 of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force. 5

CHAPTER VII

PROPERTIES AND FUNDS OF CO-OPERATIVE SOCIETIES

Funds not to be divided.

52. No part of the funds other than the net profits of a co-operative society shall be paid by way of bonus or dividend or otherwise distributed among its members: 10

Provided that a member may be paid remuneration on such scale as may be laid down by the bye-laws for any services rendered by him to the co-operative society. 15

Disposal of net profits.

53. (1) A co-operative society shall, out of its net profits in any year—

(a) transfer an amount not being less than twenty five per cent of the profits to the reserve fund; and

(b) credit an amount not being less than 3 per cent to the Co-operative Education Fund. 20

(2) The balance of the net profits may be utilised for all or any of the following purposes, namely:—

(a) payment of dividend to members on their paid-up share capital at a rate not less than 3 per cent but not exceeding 6 per cent; 25

(b) payment of bonus to members on the amount or volume of business done by them with the society or on the amount of participation in other than the share capital done with the society not exceeding 25 per cent; 30

(c) constitution of, or contributions to, such special funds as may be specified in the bye-laws;

(d) donations of amounts not exceeding ten per cent, of the net profits for any charitable purpose as defined in section 2 of the Charitable Endowments Act, 1890; and 35

(e) payment of bonus to employees of the society, to the extent and in the manner specified in the bye-laws. 6 of 1890

54. A co-operative society may invest or deposit its funds,—

Investment
of funds.

(a) in Government Savings Bank; or

2 of 1882.

(b) in any of the securities specified in section 20 of the Indian Trusts Act, 1882; or

5 (c) in the shares or securities of any other co-operative society; or

(d) with any bank or person carrying on the business of banking, approved for this purpose by the Registrar; or

(e) in any other mode permitted by the rules.

10 55. A co-operative society shall receive deposits and loans only to such extent and under such conditions as may be prescribed or as may be specified in the bye-laws. Restrictions on borrowings.

56. (1) A co-operative society shall not make a loan to any person other than a member: Restrictions on loans.

15 Provided that with the general or special sanction of the Registrar, a co-operative society may make loans to another co-operative society.

(2) Notwithstanding anything contained in sub-section (1), a co-operative society may make a loan to a depositor on the security of his deposit. 20

57. Save as is provided in sections 55 and 56 the transactions of a co-operative society with persons other than members shall be subject to such restrictions, if any, as may be prescribed. Restrictions on other transactions with non-members.

58. (1) A co-operative society may establish a contributory Provident Fund for the benefit of its employees to which shall be credited all contributions made by the employees and the society in accordance with the bye-laws of the society. 25 Provident fund.

(2) A contributory Provident Fund established by a co-operative society under sub-section (1),—

20 (a) shall not be used in the business of the society;

(b) shall not form part of the assets of the society; and

(c) shall not be liable to attachment or be subject to any other process of any court or other authority.

CHAPTER VIII

AUDIT, INQUIRY, INSPECTION AND SURCHARGE

Audit.

59. (1) The Registrar shall audit or cause to be audited by a person authorised by him by general or special order in writing in this behalf, the accounts of every co-operative society at least twice 5 in each year.

(2) The audit under sub-section (1) shall include an examination of overdue debts, if any, the verification of the cash balance and securities, and a valuation of the assets and liabilities of the society.

(3) The Registrar or the authorised person shall at all times have 10 access to all the books, accounts, documents, papers, securities, cash and other properties belonging to, or in the custody of, the society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, papers, securities, cash or other properties, to produce the same at any place at the 15 headquarters of the society or any branch thereof.

(4) Every person who is, or has at any time been, an officer or employee of the society and every member and past member of the society shall furnish such information in regard to the transactions and working of the society as the Registrar or the person authorised 20 by him may require.

**Communi-
cation of
defects in
audit to
co-operative
societies.**

60. (1) If the result of the audit held under section 59 discloses any defects in the working of a co-operative society, the Registrar may bring such defects to the notice of the society and, if the society is affiliated to another co-operative society, also to the notice of that 25 other society.

(2) The Registrar may make an order directing the society or its officers to take such action as may be specified in the order within two months to remedy the defects disclosed in the audit.

**Inquiry by
Registrar.**

61. (1) The Registrar may of his own motion, by himself or by a 30 person authorised by him by order in writing, hold an inquiry into the constitution, working and financial condition of a co-operative society.

(2) An inquiry of the nature referred to in sub-section (1) shall be held on the application of,—

(a) a co-operative society to which the society concerned is affiliated; 35

(b) a majority of the members of the committee of the society, or

(c) not less than one-third of the total number of members of the society.

(3) The Registrar or the person authorised by him under subsection (1) shall, for the purposes of an inquiry under this section, have the following powers, namely,—

(a) he shall, at all times, have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, securities, cash or other properties, to produce the same at any place at the headquarters of the society or any branch thereof;

(b) he may summon any person who, he has reason to believe, has knowledge of any of the affairs of the society to appear before him at any place at the headquarters of the society or any branch thereof and may examine such person on oath; and

(c) (i) he may, notwithstanding any rule or bye-law specifying the period of notice for a general meeting of the society, require the officers of the society to call a general meeting at such time and place at the headquarters of the society or any branch thereof and to determine such matters as may be directed by him, and where the officers of the society refuse or fail to call such a meeting, he shall have power to call it himself;

(ii) any meeting called under clause (i) shall have all the powers of a general meeting called under the bye-laws of the society and its proceedings shall be regulated by such bye-laws except that no quorum shall be necessary for such meeting.

(4) When an inquiry is made under this section, the Registrar shall communicate the result of the inquiry to the society and to the co-operative society, if any, to which that society is affiliated.

62. (1) The Registrar or the Union Territory Administration may of his own motion, or on the application of a creditor of a co-operative society, inspect or direct any person authorised by him by order in writing in this behalf, to inspect the books of the society:

Inspection of books of a co-operative society.

Provided that no such inspection shall be made on the application of a creditor unless the applicant,—

(a) satisfies the Registrar or the Union Territory Administration that the debt is a sum then due, and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and

(b) deposits with the Registrar or the Union Territory Administration such sum as security for the costs of the proposed inspection as the Registrar or the Union Territory Administration may require.

(2) The Registrar or the Union Territory Administration shall 5 communicate the results of any such inspection—

(a) where the inspection is made of his own motion, to the society, and

(b) where the inspection is made on the application of a creditor, to the creditor and the society. 10

63. Inquiry will be done free of cost.

Costs of
inquiry.
Surcharge.

64. (1) If in the course of an audit, inquiry, inspection or the winding up of a co-operative society, it is found that any person, who is or was entrusted with the organization or management of such society or who is or has at any time been an officer or an employee 15 of the society, has made any payment contrary to this Act, the rules or the bye-laws, or has caused any deficiency in the assets of the society by breach of trust or wilful negligence or has misappropriated or fraudulently retained any money or other property belonging to such society, the Registrar may, of his own motion or on the appli- 20 cation of the Committee, liquidator or any creditor, inquire himself or direct any person authorized by him, by an order in writing in this behalf, to inquire into the conduct of such person.

(2) Where an inquiry is made under sub-section (1) the Registrar may after giving the person concerned an opportunity of being 25 heard, make an order requiring him to repay or restore the money or property or any part thereof, with interest at such rate, or pay contribution and costs or compensation to such extent, as the Registrar may consider just and equitable.

CHAPTER IX

30

SETTLEMENT OF DISPUTES

Disputes
which may
be referred
to arbitra-
tion.

65. (1) Notwithstanding anything contained in any law for the time being in force, if any dispute, touching the constitution, manage- ment, or the business of a co-operative society arises,—

(a) among members, past members and persons claiming 35 through members, past members and deceased members, or

(b) between a member, past member or person claiming through a member, past member or deceased member and the society, its committee or any officer, agent or employee of the society, or 40

(c) between the society or its committee and any past committee, any officer, agent or employee, or any past officer, past agent or past employee or the nominee, heirs or legal representatives of any deceased officer, deceased agent, or deceased employee of the society, or

(d) between the society and any other co-operative society,

Such dispute shall be referred to the Registrar for decision and no court shall have jurisdiction to entertain any suit or other proceeding in respect of such dispute.

10 (2) For the purposes of sub-section (1), the following shall be deemed to be disputes touching the constitution, management or the business of a co-operative society, namely,—

15 (a) a claim by the society for any debt or demand due to it from a member or the nominee, heirs or legal representatives of a deceased member, whether such debt or demand be admitted or not;

20 (b) a claim by a surety against the principal debtor where the society has recovered from the surety any amount in respect of any debt or demand due to it from the principal debtor as a result of the default of the principal debtor, whether such debt or demand is admitted or not; and

(c) any dispute arising in connection with the election of any officer of the society.

25 (3) If any question arises whether a dispute referred to the Registrar under this section is a dispute touching the constitution, management or the business of a co-operative society, the decision thereon of the Registrar shall be final and shall not be called in question in any court.

30 66. (1) The Registrar may on receipt of the reference of a dispute under section 65,—

Reference of
disputes to
arbitration.

(a) decide the dispute himself, or

(b) transfer it for disposal to any person who has been invested by the Union Territory Administration with powers in that behalf, or

35 (c) refer it for disposal to one arbitrator.

(2) The Registrar may withdraw any reference transferred under clause (b) of sub-section (1) or referred under clause (c) of that sub-section and decide it himself.

40 (3) The Registrar or any other person to whom a dispute is referred for decision under this section may, pending the decision of the

dispute, make such interlocutory orders as he may deem necessary in the interest of justice.

Power of the Central Government to make rules. 67. (1) The Central Government may after previous publication make, by notification in the Official Gazette, rules for the purpose of carrying out the provisions of this Act. 5

(2) All rules made under this Act shall, as soon as may be after they are made, be laid for not less than thirty days before both Houses of Parliament and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following. 10

Repeal of Act II of 1912. 68. The Co-operative Societies Act, 1912 is hereby repealed.

II of 1912.

STATEMENT OF OBJECTS AND REASONS

Any attempt to ameliorate the economic development of India inescapably implies founding of creative bases of economic development in and around our villages. Happily enough this truism is commonly acknowledged. It is also agreed in equal measure that co-operation will work as the spring-board wherefrom the speeded development of our economy would take place. Besides here it is that an opportunity is created where the high and low share equal right to operate on basis humanly desirable and which conforms very near to our objective of establishing a society on the principles of Democratic socialism. However facts remain that in spite of so much undisputed support co-operation is far from coming up and the future does not warrant quite a rosy picture ahead. The chief reasons for this disappointing spectacle are:—

(i) Lack of a democratic Act for the country, which enables the vested interests and official bureaucracy to have directing control in States.

(ii) Want of up-to-date and adequate facilities for co-operative auditing and accounting.

(iii) Confounding interpretations of principle "Dividend on Participation" in case of co-operative farming.

The above mentioned defects in various acts on co-operation in different States have made difficult the movement of co-operation and building up of a co-operative social base on an increasing scale. The object of this Bill is to remove all these defects in the long run to be adopted as a model for other States too.

NEW DELHI;
2nd April, 1959.

ARJUN SINGH BHADAURIA.

FINANCIAL MEMORANDUM

Clause 3 of the Bill relates to the appointment of Registrars in all Union Territories. As the Registrars in all the Union Territories already exist, under the present Co-operative Societies Act which is sought to be repealed by this Bill, no expenditure of substantial nature will be incurred if this Bill is enacted.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 67 empowers the Central Government to make rules for the purpose of carrying out the provisions of this Act. The proposed delegation of Legislative power is of a normal character.

M. N. KAUL,
Secretary.

